

**STATE OF IDAHO
OUTFITTERS AND GUIDES LICENSING BOARD
BOARD MEETING**

MINUTES

April 28-30, 2003

**(KEY: MSC = MOTION MADE, SECOND, CARRIED)
(MSF = MOTION MADE, SECOND, FAILED)**

THE REGULAR MEETING OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD WAS CALLED TO ORDER AT 8:31 AM, MONDAY, APRIL 28, 2003, IN THE BOARD ROOM, 1365 NORTH ORCHARD, ROOM 172, BOISE, IDAHO. BOARD CHAIRMAN WAYNE HUNSUCKER, VICE CHAIRMAN SCOTT FARR AND MEMBERS RAY LYON, BILL BERNT, AND WILL JUDGE WERE IN ATTENDANCE. ALSO PRESENT WERE EXECUTIVE DIRECTOR, JAKE HOWARD, BOARD COUNSEL STEVE SCANLIN, ENFORCEMENT SUPERVISOR BJ SNOOKS, AND SECRETARY MICHELE VELASQUEZ. ALSO PRESENT WERE JAY HAMILTON, HAMILTON OUTFITTERS, WHO ARRIVED AT 8:54 AM.

Review of Agenda: Director Howard reviewed the agenda with the Board and asked for last minute changes or recommendations. No changes were made.

February Board Minutes - Director Howard provided a draft copy of the February 2003, Board minutes for Board review and approval. MSC (MOTION BY JUDGE, SECOND BY LYON, UNANIMOUS) TO APPROVE MINUTES OF FEBRUARY MEETING AS PRESENTED.

STAFF REPORTS – Technical Records Specialist I – Leanne Reincke: Ms. Reincke presented a report (attached) of the F & G allocation procedure based on historic use, the 10-2 and 3% formula. It was decided that the Fish & Game allocation for the two new outfitter allocated hunts, for controlled deer hunt numbers 1099 (in hunt area 75) and 1091 (in hunt area 29), this year was based on the 3% formula. Also, she discussed the procedures for the waiting list and the hardship and pool categories. It was decided that Ms. Reincke needed to determine from IDFG how surrendering of vouchers and securing tags worked for the general allocation.

STAFF REPORTS – Enforcement Report – BJ Snooks – Enforcement Supervisor: Mr. Snooks presented the Board with a map (attached) of the state, broken out into 3 regions of enforcement; North, Central and East. He said that he had discussed selections for an agent for each region to help with the coordination of complaint investigations, training, and communication with outfitters and citizens in that region with Director Howard and intends to implement that plan. He also stated he was looking for additional enforcement agents in Southwest and Eastern Idaho. Director Howard said Enforcement staff are part-time and a larger pool is needed in order to handle all complaints and investigations. He said it was hard to find qualified Enforcement staff willing to work part-time for \$8.50 an hour. On a separate

matter, Mr. Judge suggested that Mr. Snooks look into IOGLB training Enforcement officers.

Case Review: Worksheets (attached) of cases, assignments, and dispositions were submitted and reviewed. The Board asked to have a short explanation of each case submitted with the worksheets in future reports.

Bond Cancellations: A position memorandum (attached) was given to the Board. The definition of “cancel” was discussed and determined that if the bond is canceled the license is automatically suspended and can be re-instated automatically upon renewal of the bond. The general consensus of the Board was for enforcement to issue a \$100 citation to any outfitter who has their bond canceled. The Board asked the Director to notify the industry that the new policy will go into effect July 01, 2003. **First Aid Standard:** A position memorandum (attached) was given to the Board. The current standard for accepted courses is that the class has to include a practical demonstration and a written test. There was some discussion regarding Internet and video courses with the outfitters completing the demonstration and testing portions. The liability of making and administering the tests would fall on the outfitters and it was suggested that outfitters who would like to administer their own tests, become Red Cross certified instructors and use the Red Cross course. Board consensus was to continue with the current Red Cross standard for accepting first aid certifications.

WORK SESSION

Fee proposal: Director Howard presented a fee increase proposal for Board review and approval. Two options were presented and Director Howard was asked to consolidate the contents, and present that proposal on Wednesday. Fee caps were also suggested and it was agreed that it should be done, but as a separate proposal to the legislature. Proposal was tabled for further discussion on Wednesday, April 30.

Recessed for lunch @ 12:00 PM and reconvened at 1:33 PM with all members present. Also present were Executive Director Jake Howard, Board Counsel Steve Scanlin, Secretary Michele Velasquez and Jay and Jim Hamilton, Hamilton Outfitters.

Attorney Report - Steve Scanlin: Reported on legal activities since the last Board meeting including preparation of legislative idea forms, legislation and proposed rules.

Show Cause Hearing – Dave Shillinger, Jagged Edge Outfitters: Vice Chairman Scott Farr recused himself from the hearing. Present for this hearing were Mr. Shillinger and his Attorney Mr. Mike Lee, Technical Records Specialist Leanne Reincke, Enforcement Supervisor BJ Snooks, Fish and Game Officers Chris Wright and Dave Silcock, and Jay and Jim Hamilton, Idaho Outfitters. Mr. Tobiason reviewed the case details from the hearing on February 27, 2003, Mr. Shillinger stipulated to Counts 1 and 2, at the prior hearing, and in doing so, Counts 3 and 4 were dropped. Mr. Shillinger plead guilty to four citations of outfitting without a license in Montana in 1996, and failure to disclose them on his application. Mr. Shillinger also plead guilty to unlawfully taking game in Montana in 1996, and fishing without a license in Montana in 1995 and 1996, which were not disclosed on his application. It was also

brought to the Board's attention that Mr. Shillinger has violations under investigation in Wyoming.

Executive Session: In accordance with the provisions of Sec. 67-2345, Idaho Code, MSC (MOTION BY LYON, SECOND BY JUDGE-UNANIMOUS) TO MOVE THE BOARD INTO EXECUTIVE SESSION AT 4:55 PM TO DISCUSS SHILLINGER HEARING. MSC (MOTION BY JUDGE, SECOND BY LYON-UNANIMOUS) AT 6:00 PM TO COME OUT OF EXECUTIVE SESSION WITH NO DECISION MADE.

After further discussion of the matter, MSC (MOTION BY LYON, SECOND BY BERNT-UNANIMOUS) TO REVOKE MR. SHILLINGER'S LICENSE AND TO ASSESS FEES OF \$7922.57.

Meeting recessed at 6:00 PM and reconvened at 7:38 AM, Tuesday, April 29, 2003, with all members present. Also present were Executive Director Jake Howard, Technical Records Specialist Leanne Reincke, Enforcement Supervisor BJ Snooks and Secretary Michele Velasquez. Mr. Scanlin arrived at 8:22 AM.

Allocation Manual – Leanne Reincke : Also present for this discussion was Grant Simonds, IOGA. The manual was reviewed and some minor changes were made. Discussion was tabled for later review during the meeting. At the Board's request, Grant Simonds, IOGA, agreed to provide an introduction to the allocation manual explaining the outfitters tag allocation history.

SA7A, B & C – Discussion: The Board discussed the differences between SA7A and SA7B and determined that at present there were none of substance. All outfitters licensed for SA7B are also licensed for SA7A. The difference being SA7B is open for year round use. Because SA7B is overlapped by SA6 and SA6 outfitters operate on that stretch creating a greater potential for over crowding. Based on these facts and based on outfitter comments received at the Board's invitation prior to the meeting, the Board determined that use on SA7B is for steelhead fishing and decided to consider setting user dates to be from September 15 to March 31. The Board decided to further consider to extending SA7B float boat use to Island bar and limit the number of boats on that stretch as previously discussed. Based on use reports from BLM and information received from SA7B outfitters not using SA7B in the fall, it concerned the Board that several outfitters want to maintain SA7B on their license to increase the value of their business and in order to sell it. The Board directed Director Howard to contact outfitters not using this area during the fall with regard to the Board's concern and intent. The Board determined that a decision on the total number of outfitters licensed on SA7B should be tabled until LuVerne Grussing, Outdoor Recreation Planner with the Cottonwood Office of the BLM, could be present. This issue was table until the June Board meeting. The Board decided to consider limiting SA6 outfitter fishing during September 15 thru March 31 below Vinegar Creek to lessen the impact on SA7B, which begins there. These outfitters would continue to have non-fishing ingress and egress to SA6 starting at Spring Bar. SA6 outfitters also licensed for SA7B would not be affected by the fishing limitation. Director Howard was asked to write a letter to

SA6 outfitters to make them aware of the Board's concern and this consideration. The Board asked Director Howard to include the changes on SA6 and SA7A, B & C in the rules package as temporary/proposed rules.

BJ Snooks, Enforcement Supervisor -- Grant Simonds, IOGA – Clearwater Sticker

Initiative: Draft "Policy" (attached) was distributed. Mr. Snooks presented the Board with a prototype of the sticker that would be used. The Board suggested that the words "Licensed Fishing Guide" or "Clearwater River Licensed Fishing Guide" and "by authority of IOGLB" be added to the sticker.

It was decided all hard-sided boats, and not inflatable boats, will be required to have a sticker for the program to work. Also, the stickers would have a serial number and be color-coded by year. The duration of the program was set at a three years as a test program. Costs of stickers would be recovered from outfitters who would purchase the stickers from IOGLB.

New Business– Coast Guard Training Requirements: Also present were Grant Simonds, IOGA and Nate Hejlm, Senator Craig's Office. Director Howard and Board member Bernt presented the issue of Coast Guard Training. They said requirements seeming to be too stringent for most of the Idaho outfitters. Mr. Hejlm distributed a copy of a letter (attached) that Senator Craig sent to the Coast Guard, and let the Board know that a direct response from the Coast Guard should be expected. It was discussed that it was possible that the Coast Guard could make a rule exempting Idaho from the requirements and handing authority on the issue over to the Board. It was also proposed that a meeting be set with the Coast Guard to discuss the issue and to develop a proposal for Board consideration at the June Meeting.

WORK SESSION

Waterways: Director Howard discussed a rule change that had previously been pulled out of the rules package regarding a definition of waterways and the area on land to which they extend for the purpose of incidental land-base use. The Board discussed the matter introducing several ideas that were incorporated into the rule language. There was no motion on the changes made, since it was to be part of the rules package.

Recessed for lunch @ 11:45 AM and reconvened at 1:24 PM with all members present. Also present were Executive Director Jake Howard, Board Counsel Steve Scanlin, and Secretary Michele Velasquez. Director Howard suggested that, since the board was behind schedule, the meeting should run late on Wednesday, rather than scheduling work to be done Thursday morning.

WORK SESSION

Fishing Codes: Also present was Ms. Fay Allen, IOGLB License Clerk. Director Howard introduced proposed changes to the current activities codes. It was agreed that all the fishing codes be eliminated except: 5AF, 5IF and 5F, with 5F standing for all fishing except

anadromous and the definitions for 5AF and 5IF staying the same. Also, 4TK was added for turkey, and Chucker and Gray Partridge were combined and classified under code 4CH.

MSC (MOTION BY FARR, SECOND BY JUDGE, UNANIMOUS) – TO ACCEPT CHANGES TO FISHING CODES.

Executive Session: In accordance with the provisions of Sec. 67-2345, Idaho Code, MSC (MOTION BY BERNT, SECOND BY LYON-UNANIMOUS) TO MOVE THE BOARD INTO EXECUTIVE SESSION AT 3:00 PM TO DISCUSS CONTRACTUAL ISSUES. MSC (MOTION BY LYON, SECOND BY JUDGE – UNANIMOUS) AT 3:15 PM TO COME OUT OF EXECUTIVE SESSION WITH NO DECISION MADE.

WORK SESSION

IOGLB/ Federal MOU: Also present were Carol Hennessey, USFS Lochsa Ranger District, Kay Schiepan, BLM State Office, and Brad Compton, IDFG. Director Howard presented the Board with the latest version of the MOU (attached), and described the changes that had been made since the last Board meeting. Ms. Hennessey and Ms. Schiepan stated that they had released the documents interagency for review and comment, and it was decided that IOGLB would be responsible for public input, with the acknowledgement that the public did not have access to the original document. The Board asked Director Howard to incorporate agency review comments into the MOU, and get the MOU back for Board review at the June meeting. Ms. Hennessey and Ms. Schiepan said they could get an updated MOU back to Director Howard by June 1st. Following the June Board meeting the MOU would be made available to the industry for comment. It was also noted that IOGLB and IDFG are working on a separate MOU with the intention that the two MOU's will be combined at a later date. Director Howard said that a separate interagency agreement involving the USFS, BLM, and IDFG was underway to develop the GIS mapping system of Idaho outfitter operating areas. He also said that a meeting with the USFS, BLM and IDFG was scheduled to begin deliberating a joint outfitter use report system and guide book to use with the MOU, to help people apply to be an outfitter and to help existing outfitters do amendments and sales agreements.

Director's Report: Director Howard went over the financial report and noted to the Board that everything is on track for this fiscal year. Director Howard also went over the probation and licensing reports, and reported that there were no new staff issues. He said the licensing process was going much faster this year due to changes the Board implemented with first aid cards and credit card processing last year. Director Howard was optimistic that the IOGLB staff would be capable of keeping up with the coming rush of guide applications that usually peaks between May 1 and July 4. He said staff were several hundred licenses ahead of last year at the same time.

Meeting recessed at 6:00 PM and reconvened at 8:33 AM, Wednesday, April 30, 2003, with all members present. Also present were Executive Director Jake Howard, Technical

Records Specialist Leanne Reincke, Enforcement Supervisor BJ Snooks, Secretary Michele Velasquez, and Board Counsel Steve Scanlin.

Denial Hearing – Mark Cardall: Also present for this hearing were Mark and Gretchen Cardall, and BJ Snooks, Enforcement Supervisor. Mr. Cardall plead guilty to using a false oath to obtain a deer and elk license in Wyoming in 2003. Mr. Cardall signed an informal settlement with the Wyoming licensing board, which included a probationary license.

Executive Session: In accordance with the provisions of Sec. 67-2345, Idaho Code, MSC (MOTION BY LYON, SECOND BY JUDGE – UNANIMOUS) TO MOVE THE BOARD INTO EXECUTIVE SESSION AT 9:38 AM TO DISCUSS DETAILS OF THE CASE. MSC (MOTION BY LYON, SECOND BY JUDGE, UNANIMOUS) AT 10:10 AM TO COME OUT OF EXECUTIVE SESSION WITH NO DECISIONS MADE.

After further discussion, MSC (MOTION BY JUDGE, SECOND BY BERNT – HUNSUCKER, FARR- YEA, LYON-NAY) AT 5:45 PM TO ISSUE MR. CARDALL A PROBATIONARY LICENSE CONTINGENT UPON THE WYOMING BOARD ISSUING HIM A PROBATIONARY LICENSE AND WITH THE SAME CONDITIONS OF PROBATION AS THE WYOMING LICENSE AND ASSESS FEES OF \$257.60.

Denial Hearing – Mike Hammer: Also present for this hearing were Mike and Stephaine Hammer, and Enforcement Supervisor BJ Snooks. Mr. Hammer testified that he received a ticket for a fish and game violation citation when he was 17, but did not check the appropriate box because he did not think a ticket was a conviction.

MSC (MOTION BY LYON, SECOND BY BERNT –UNANIMOUS) AT 10:25 AM TO ISSUE STANDARD PROBATIONARY LICENSE FOR ONE YEAR.

After further discussion, MSC (MOTION BY LYON, SECOND BY BERNT – UNANIMOUS) AT 4:54 PM TO ADD AMENDMENT TO PREVIOUS MOTION AND TO ASSESS MIKE HAMMER \$165.20 IN FEES.

Denial Hearing – Tim Flaherty: Also present for this hearing were Mr. Flaherty and his attorney Ms. Kathleen Elliot, Steve Tobiason, Brent Estep, and Enforcement Supervisor BJ Snooks. Mr. Flaherty had a felony drug conviction in 1994. He did disclose this information on his application.

MSC (MOTION BY FARR, SECOND BY JUDGE –UNANIMOUS) AT 11:15 AM TO ISSUE PROBATIONARY LICENSE FOR ONE YEAR WITH OUT THE AMENDMENT STIPULATION AND ASSESS PROSECUTION FEE (TO BE DETERMINED LATER).

After further discussion, MSC (MOTION BY JUDGE, SECOND BY LYON – UNANIMOUS) AT 6:00 PM TO ADD AMENDMENT TO PREVIOUS MOTION AND TO ASSESS MR. FLAHERTY \$291.70 IN FEES.

Denial Hearing – Stanley Phillip Sweet: Also present for this hearing were Mr. Sweet and Dolores Sweet, Steve Tobiason, and Enforcement Supervisor BJ Snooks. Mr. Sweet received a felony battery conviction in 2002. He is currently serving a 9-month jail sentence and is on work release. Discussion of this matter was tabled for later debate.

After further discussion, MSC (MOTION BY LYON, SECOND BY FARR– BERNT, HUNSUCKER-YEA, JUDGE-NAY) AT 5:20 PM TO DENY MR. SWEET’S GUIDE LICENSE DURING HIS INCARCERATION WITH THE RECOMMENDATION THAT HE REAPPLY WHEN INCARCERATION IS OVER.

Denial Hearing – Justin Mullikin: Also present for this hearing were Mr. Mullikin, and Enforcement Supervisor BJ Snooks. Mr. Mullikin received a fish and game violation for hunting with the aid of an artificial light, and failed to disclose it on his application.

MSC (MOTION BY JUDGE, SECOND BY BERNT –UNANIMOUS) AT 12:53 PM TO ISSUE PROBATIONARY LICENSE FOR ONE YEAR AND ASSESS PROSECUTION FEE OF \$161.20.

Recessed for lunch @ 1:00 PM and reconvened at 1:30 PM with all members present. Also present were Executive Director Jake Howard, Enforcement Supervisor BJ Snooks, Technical Records Specialist Leanne Reincke, Board Counsel Steve Scanlin, and Secretary Michele Velasquez.

WORK SESSION

Fee proposal Continued: Direct Howard presented a fee proposal based on changes the Board had suggested, which consolidated options 1 and 2 presented on Monday. The Board asked the Director to prepare a summary, which he would make available to the industry in time for comment at the June Board meeting.

MSC (MOTION BY BERNT, SECOND BY LYON –UNANIMOUS) AT 1:40 PM TO ADOPT FEE PROPOSAL.

After further discussion, MSC (MOTION BY FARR, SECOND BY JUDGE – UNANIMOUS) AT 2:00 PM TO ACCEPT BEAR AND COUGAR OVERLAP POLICY, WITH REVISIONS.

Legislation and Proposed Rules: Mr Scanlin reviewed the legislative idea forms submitted to DFM of the Office of the Governor and proposed Rules which were submitted to the Office of Administrative Rules prior to the deadlines for doing so.

MSC (MOTION BY BERNT, SECOND BY FARR –UNANIMOUS) AT 2:34 PM TO ACCEPT RULES PACKAGE, WITH REVISIONS (AS TEMPORARY RULES). THE BOARD ASKED DIRECTOR HOWARD TO MAKE THE RULES AVAILABLE FOR PUBLIC REVIEW PRIOR TO THE JUNE MEETING.

Appointment – Darwin Vander Esch – Regarding Allocation in Unit 18 and Overlap with Ray Ralls: Also present were Mr. Vander Esch, Mr. Ralls, and Don Sorenson, Slate Creek Ranger District, USFS. Mr. Vander Esch approached the Board requesting that IOGLB staff research his historic use in unit 18 for deer for the possibility that he was overlooked for an allocated tag(s). The confusion came from an overlap with the Bigfoot Outfitters (Ralls) operating area. The Board consensus was that it would research his concerns and get back to him at the August Board meeting.

Appointment – Tim Craig – Tom Fliss – Regarding Overlap: Also present were Mr. Craig, Mr. Fliss and Don Sorenson, Slate Creek Ranger District, USFS. Mr. Fliss is in the process of selling his business, and during the research there-of, it was noticed that there was an overlap with Mr. Craig's operating area. Mr. Craig contested the sale based on the overlap with his operating area. It is the Boards position to correct overlaps during sales, so that each outfitter has their own area. Director Howard, Mr. Lyons, Chairman Hunsucker and Technical Records Specialist Leanne Reincke, agreed to set up a meeting to review the Board files on this matter Mr. Sorenson and former Director Dean Sangrey were to be invited as well. This group will report back to the Board with their findings.

MSC (MOTION BY JUDGE, SECOND BY LYON –UNANIMOUS) AT 6:05 PM TO ADJOURN.

With no further business to come before the Board, the meeting was adjourned at 6:05 PM, April 30, 2003.

WAYNE HUNSUCKER, CHAIRMAN

ATTEST:

STATE OF IDAHO
OUTFITTERS AND GUIDES LICENSING BOARD
MINUTES – APRIL 28-30, 2003

JAKE HOWARD, EXECUTIVE DIRECTOR